

PLANNING COMMISSION OF MONTEREY PARK AGENDA

**REGULAR MEETING
Monterey Park City Hall Council Chambers
320 West Newmark Avenue**

**Tuesday
October 23, 2018
7:00 PM**

MISSION STATEMENT

**The mission of the City of Monterey Park is to provide excellent services
to enhance the quality of life for our entire community.**

Documents related to an Agenda item are available to the public in the Community and Economic Development Department – Planning Division located at 320 West Newmark Avenue, Monterey Park, CA 91754, during normal business hours and the City's website at www.montereypark.ca.gov.

PUBLIC COMMENTS ON AGENDA ITEMS

You may speak up to 5 minutes on Agenda item. You may combine up to 2 minutes of time with another person's speaking. No person may speak more than a total of 10 minutes. The Board Chair and Board Members may change the amount of time allowed for speakers.

Per the Americans with Disabilities Act, if you need special assistance to participate in this meeting please call City Hall at (626) 307-1359 for reasonable accommodation at least 24 hours before a meeting. Council Chambers are wheelchair accessible.

CALL TO ORDER

Chairperson

FLAG SALUTE

Chairperson

ROLL CALL

Delario Robinson, Theresa Amador, Ricky Choi, Eric Brossy De Dios, and Margaret Leung

AGENDA ADDITIONS, DELETIONS, CHANGES AND ADOPTIONS

PUBLIC COMMUNICATIONS. While all comments are welcome, the Brown Act does not allow the Commission to take action on any item not on the agenda. The Commission may briefly respond to comments after Public Communications is closed. Persons may, in addition to any other matter within the Commission's subject-matter jurisdiction, comment on Agenda Items at this time. If you provide public comment on a specific Agenda item at this time, however, you cannot later provide comments at the time the Agenda Item is considered.

[1.] PRESENTATIONS – None

[2.] CONSENT CALENDAR – None

[3.] PUBLIC HEARING

3-A CONDITIONAL USE PERMIT (CU-17-10) TO ALLOW FOR A WIRELESS TELECOMMUNICATION FACILITY (VERIZON) IN THE O-S (OPEN SPACE) ZONE – 1909 FULTON AVENUE

It is recommended that the Planning Commission:

- (1) Open the public hearing;
- (2) Receive documentary and testimonial evidence;
- (3) Close the public hearing and requesting that the City Council adopt a Resolution approving Conditional Use Permit (CUP-17-10) to allow a new wireless telecommunications facility at 1909 Fulton Avenue; and
- (4) Taking such additional, related, action that may be desirable.

California Environmental Quality Act (CEQA):

The Project is categorically exempt from additional environmental review pursuant to CEQA Guidelines § 15303 as a Class 3 categorical exemption (New Construction or Conversion of Small Structures), because the project consists of construction and location of one new, small facility or structure, including new small equipment thereon. It should also be noted that pursuant to case law (*Don't Cell Our Parks v. City of San Diego* (2018) 21 Cal.App.5th 338) an unmanned cell tower disguised as a 534 square foot tree, including the equipment enclosure, falls within the scope of the Class 3 categorical exemptions under CEQA Guidelines § 15303. Lastly, pursuant to § 15300.2, the project is not an exception to the categorical exemption identified because (1) the project does not impact an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies; (2) the cumulative impact of successive projects of the same type in the same place, over time is insignificant; (3) there is no reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances; (4) the project will not result in damage to scenic resources; (5) the project is not located on a site which is included on any list compiled by the Department of Toxic Substances Control (pursuant to Government Code § 65962.5); and (6) the project will not cause a substantial adverse change in the significance of a historical resource.

[4.] OLD BUSINESS - None

[5.] NEW BUSINESS - None

[6.] COMMISSION COMMUNICATIONS AND MATTERS

[7.] STAFF COMMUNICATIONS AND MATTERS

ADJOURN

Next regular scheduled meeting on November 27, 2018.

APPROVED BY:

| | |
|-----------------------|---|
| MICHAEL A. HUNTLEY |  |
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Planning Commission Staff Report

DATE: October 23, 2018

AGENDA ITEM NO: 3-A

TO: The Planning Commission
FROM: Michael A. Huntley, Community and Economic Development Director
SUBJECT: Request that the Planning Commission recommend that the City Council adopt a resolution and Conditional Use Permit (CUP-17-10) to allow a new wireless telecommunications facility (Verizon) – 1909 Fulton Avenue (Assessor's Parcel Number: 5265-001-808).

RECOMMENDATION:

It is recommended that the Planning Commission consider:

- (1) Opening public hearing;
- (2) Receiving documentary and testimonial evidence;
- (3) Closing the public hearing and requesting that the City Council adopt a Resolution approving Conditional Use Permit (CUP-17-10) to allow a new wireless telecommunications facility at 1909 Fulton Avenue; and
- (4) Taking such additional, related, action that may be desirable.

CEQA (California Environmental Quality Act):

The Project is categorically exempt from additional environmental review pursuant to CEQA Guidelines § 15303 as a Class 3 categorical exemption (New Construction or Conversion of Small Structures), because the project consists of construction and location of one new, small facility or structure, including new small equipment thereon.¹ Additionally, pursuant to § 15300.2, the project is not an exception to the categorical exemption identified because (1) the project does not impact an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies; (2) the cumulative impact of successive projects of the same type in the same place, over time is insignificant; (3) there is no reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances; (4) the project will not result in damage to scenic resources; (5) the project is not located on a site which is included on any list compiled by the Department of Toxic Substances Control (pursuant to Government Code § 65962.5); and (6) the project will not cause a substantial adverse change in the significance of a historical resource.

¹ It should also be noted that pursuant to case law (*Don't Cell Our Parks v. City of San Diego* (2018) 21 Cal.App.5th 338) an unmanned cell tower disguised as a 534 square foot tree, including the equipment enclosure, falls within the scope of the Class 3 categorical exemptions under CEQA Guidelines § 15303.

DISCUSSION:

I. Project Summary

To address unreliable coverage within the southeastern portion of the City, Verizon's radio frequency engineers determined that an additional facility is needed to relieve network-traffic congestion and ensure reliable levels of service. (See Attachment 4 – Propagation Maps, which illustrate areas of network deficiency.) The applicant, Lisa Desmond of Delta Groups Engineering, Inc., on behalf of Verizon Wireless, is requesting a Conditional Use Permit to allow for the installation of a new 47-foot tall mono-eucalyptus "tree" (the "Facility"). The Facility will support 12 eight-foot tall antenna panels, 18 radios and three raycaps; at its base, the applicant is also proposing to construct a concrete pad which will support two equipment cabinets and a DC generator. A wireless telecommunication facility is an allowed use subject to a conditional use permit and the proposed project is consistent with the standards established in MPMC Chapter 21.34 for wireless telecommunication facilities.

The applicant considered five sites: (1) a monopole constructed within La Loma Park; (2) a mono-pine constructed within La Loma Park, near an existing Southern California Edison ("SCE") transmission tower; (3) collocation on an existing SCE transmission tower towards the entrance to La Loma Park; (4) collocation on an existing SCE transmission tower at the top of the hill adjacent to the nursery, also within SCE's right-of-way; and (5) a monopole constructed at 1909 Fulton Avenue. Verizon determined the property located at 1909 Fulton Avenue to be the most desirable because (1) a monopole constructed in La Loma Park would have been too tall for its surroundings, and (2) collocation would have undermined the integrity of the existing cell towers. 1909 Fulton Avenue is zoned O-S (Open Space) and is designated O-S (Open Space) in the General Plan ("Subject Property"). Located to north and southwest of the Subject Property are single-family dwellings, to the south is La Loma Park, and to the east and west are additional lots owned by SCE.

The Facility will be constructed on property leased from SCE 30 by 22 feet wide and located approximately 52 feet from the nearest existing SCE tower, to the east. Within this portion of SCE's right-of-way are a plant nursery and four existing SCE transmission towers. The proposed Facility will be camouflaged to replicate a eucalyptus tree,² and includes the construction and screening of accessory wireless equipment (Monterey Park Municipal Code ("MPMC") § 21.34.020). (See Attachment 3 – Photo Simulations.) The base of the Facility will be screened by a chain-link fence with brown slats and will be placed at the base of the Facility – in the least visibly obtrusive feasible location.

² An antenna mounted on the exterior of a freestanding structure that has been specifically built for the sole purpose of supporting a wireless telecommunications facility using camouflage design techniques that only partially hide or disguise the antenna panels but leave them partially visible, are deemed to be "Class 6" antennae. See MPMC § 21.04.074.

Verizon must operate the proposed facility in full compliance with the regulations and licensing requirements of applicable federal and state laws. To remain compliant, Verizon must meet certain coverage objectives. A centerline antenna height of 45 feet (above grade) is necessary to achieve these objectives by ensuring a "clear line of sight" to the intended coverage area. This necessary height will exceed the thirty-five feet currently allowed in the O-S Zone; the height standard, however, may be increased subject to a finding of the City Council (see MPMC § 21.07.060). Without the additional 12 feet in height Verizon will not meet the coverage objectives.

The Facility will be unmanned and will not generate any smoke, odor, noise,³ or other adverse impacts to the adjacent land uses. The project will also have no impact on parking, traffic, circulation or density in the area and will not adversely affect any existing scenic or natural vistas. Lastly, the Facility will not be visible from the Interstate 60 Pomona Freeway.

Staff believes that the proposed project is consistent with the requirements and standards in the MPMC and will not have significant impacts to the surrounding community. Staff therefore requests that the Planning Commission recommend that the City Council adopt a resolution and Conditional Use Permit (CUP-17-10) to allow a new wireless telecommunications facility at 1909 Fulton Avenue.

II. Other Considerations

A. *FCC Shot Clock Tolling Agreement*

The conditional use permit application for the proposed project was filed on October 23, 2017. The application was scheduled for public hearing on March 13, 2018. On March 1, 2018, the applicant requested a continuance of the public hearing regarding Conditional Use Permit (CU-17-01) to allow for additional time to conduct outreach and further refine the application materials prior to any public hearing. Staff understood that the applicant was working diligently on providing the additional information to the City so that the project can be brought back to the Planning Commission. Accordingly, per Government Code § 65964.1, the City and Verizon agreed to mutually extend the date to review the application to May 31, 2018 (Attachment 5 – Letter Agreement dated May 12, 2018). This date was mutually extended twice more, until it was extended for the final time on September 20, 2018 to November 6, 2018 (Attachment 5 – Letter Agreements dated May 30, 2018 and July 24, 2018). The City now has until March 22, 2019 to approve or disapprove the application; and until December 24, 2018 to make a determination on the CUP.

B. *Legal Notification*

In compliance with MPMC § 21.34.020(H)(2), the legal notice of this hearing was mailed to **157** property owners and current tenants of the property concerned within a 500 feet

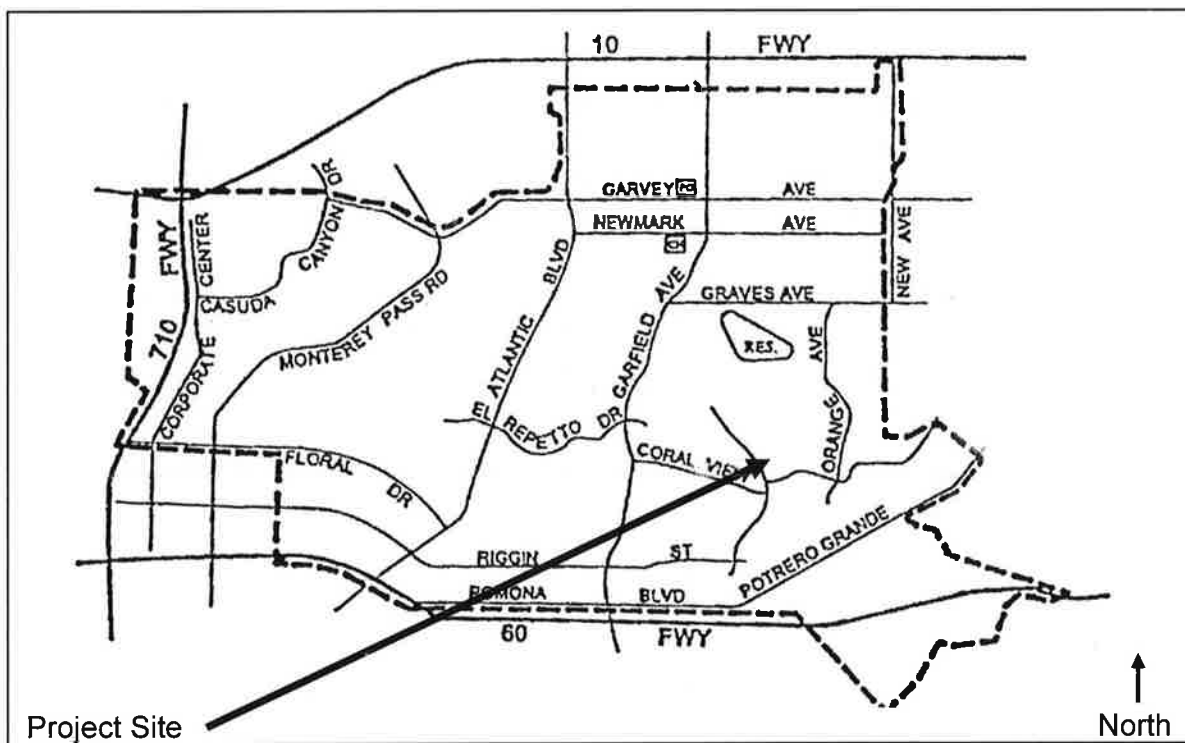
³ See MPMC § 9.53.070(7), any activity, the regulation of which has been preempted by state or federal law, shall be exempt from the provisions of the City's noise regulations.

radius on **September 24, 2018**, at least 30-days before the hearing, with an affidavit of mailing on file. A notification, three feet in height and four feet in width was posted by the applicant for 30-days at the site where the wireless telecommunications facility is proposed for installation. The legal notice of this hearing was also posted at City Hall, Monterey Park Bruggemeyer Library, and Langley Center on **September 24, 2018**, with affidavits of posting on file.

C. *Public Outreach*

On May 2, 2018, the applicant held a Community Workshop at the Service Club House located at Barnes Park, on the northeast corner of South McPherrin Avenue and Harding Avenue – south of Monterey Park City Hall. According to the applicant, seven people were in attendance. Notification of the Community Workshop was mailed to properties located within 500 feet of the subject property and posted at the subject property.

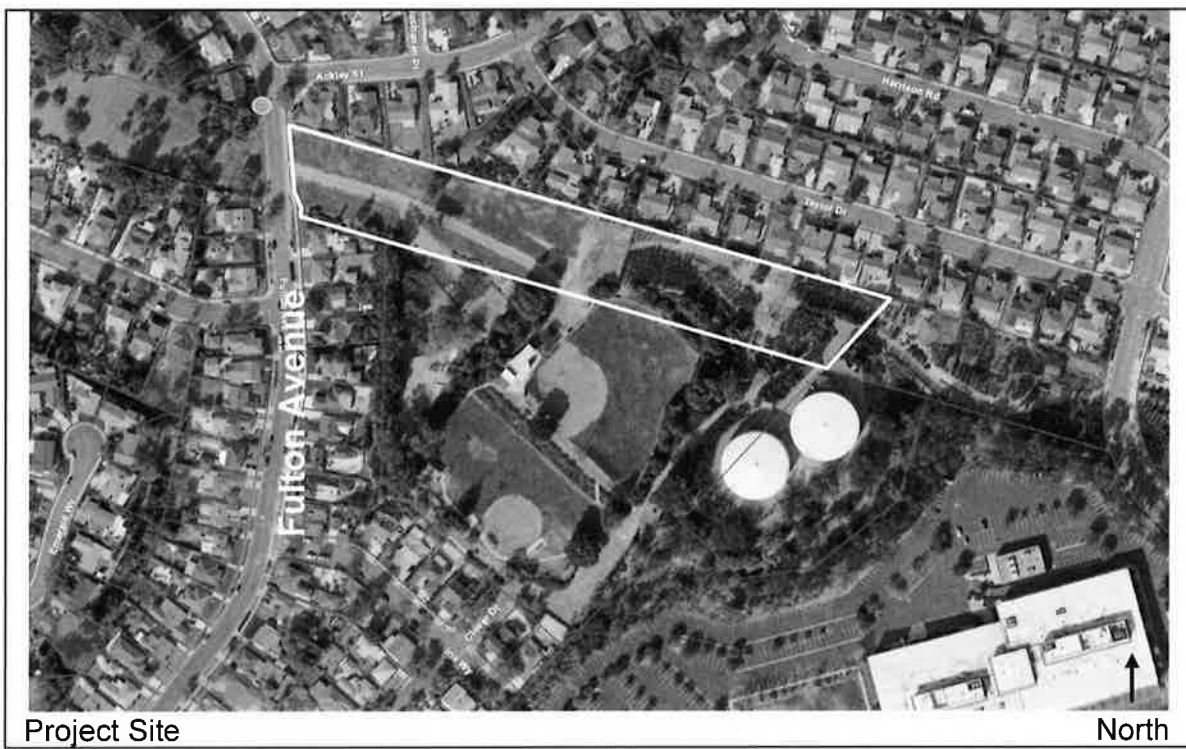
IV. Vicinity Map



VII. Street Map



VIII. Aerial Map



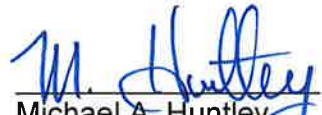
ALTERNATIVE COMMISSION CONSIDERATIONS:

None.

FISCAL IMPACT:

None.

Respectfully submitted,



Michael A. Huntley
Community and Economic
Development Director

Prepared by:



Samantha Tewasart
Senior Planner

Reviewed by:



Natalie C. Karpeles
Deputy City Attorney

Attachments:

- Attachment 1: Draft Resolution
- Attachment 2: Site, floor, and elevation plans
- Attachment 3: Photo simulations
- Attachment 4: Propagation Maps
- Attachment 5: Letter Agreements dated March 12, 2018, May 30, 2018, July 24, 2018, and September 2, 2018

ATTACHMENT 1

Draft Resolution

RESOLUTION NO.

A RESOLUTION RECOMMENDING THAT THE CITY COUNCIL APPROVE CONDITIONAL USE PERMIT (CUP-17-10) FOR A WIRELESS TELECOMMUNICATION FACILITY (VERIZON) AT 1909 FULTON AVENUE (ASSESSOR'S PARCEL NUMBER: 5265-001-808).

The Planning Commission of the City of Monterey Park does resolve as follows:

SECTION 1: The Planning Commission finds and declares that:

- A. On October 23, 2017, Lisa Desmond of Delta Groups Engineering, Inc, submitted an application on behalf of Verizon Wireless requesting approval of Conditional Use Permit (CUP-17-10) to allow a wireless telecommunication facility at 1909 Fulton Avenue ("Project"). This application is made pursuant to Monterey Park Municipal Code ("MPMC") §§ 21.07.050(H), 21.32.020, and Chapter 21.34;
- B. The proposed Project was reviewed by the City of Monterey Park Community and Economic Development Department for, in part, consistency with the General Plan and conformity with the MPMC;
- C. In addition, the City reviewed the Project's environmental impacts under the California Environmental Quality Act (Public Resources Code §§ 21000, *et seq.*, "CEQA") and the regulations promulgated thereunder (14 California Code of Regulations §§ 15000, *et seq.*, the "CEQA Guidelines");
- D. The Community and Economic Development Department completed its review and, following a series of mutually approved extensions, scheduled a public hearing regarding the Project before the Planning Commission for October 23, 2018. Notice of the public hearing was posted and mailed as required by the MPMC;
- E. On October 23, 2018, the Planning Commission held a public hearing to receive public testimony and other evidence regarding the proposed Project, including, without limitation, information provided to the Planning Commission by City staff and public testimony, and representatives of Delta Groups Engineering, Inc.; and
- F. This Resolution and its findings are made based upon the testimony and evidence presented to the Commission at its October 23, 2018 hearing including, without limitation, the staff report submitted by the Community and Economic Development Department.

SECTION 2: *Factual Findings and Conclusions.* The Planning Commission concludes that the following circumstances exist:

- A. The Applicant seeks to construct a new 47 feet tall mono-eucalyptus tree within a 30-feet by 22-feet lease area (the "Facility"). The mono-eucalyptus tree structure will support 12 8-feet tall antenna panels, 18 radios, and 3 raycaps. At the base of the tree there will be 2 equipment cabinets and a DC generator mounted onto a new concrete pad. The equipment will be screened by a chain link fence with brown slats. This

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screening will be visually integrated with the landscaping of the surroundings. Placement of the cabinets and generator at the base of the Facility is in the least visibly obtrusive feasible location because it will be located within an existing plant nursery and fully screened by the nursery plants. The antennas will be hidden within an antenna support structure designed to be compatible with existing landscaping on the property. The proposed facility will be proportional to the existing landscape. The proposed mono-eucalyptus tree is a relatively newer design and will be more compatible with the existing trees, including a few other eucalyptus trees, within SCE's right-of-way, La Loma Park, and adjacent residential properties. To further replicate the appearance of a eucalyptus tree, the support pole, after the first 11 feet will split into 3 poles. Per the conditions of approval (Attached hereto as Exhibit A), the pole will be required to be clad in a textured material resembling rough bark, which must be white, cream, grey and copper, and which will cover at least the bottom 15 feet; above that, the pole must be painted to match; the support brackets must be painted to blend into the surround branches; and the leaves on the branches must be composed of green and olive materials;

- B. 1909 Fulton Avenue is zoned O-S (Open Space) and designated Commercial in the General Plan. All public parks and City-owned recreational facilities are included in the Open Space category. While parks represent the primary permitted use, other uses public-serving in nature are allowed. A wireless telecommunication facility is allowed in the O-S zone, subject to approval of a conditional use permit. The Facility complies with the development standards of the O-S Zone because the maximum lot coverage will be less than twenty-five percent of the total gross lot area; will maintain a front yard of twenty-five feet; and will not encroach into any of the side yards;
- C. The proposed use has antennas that must have a "clear line of sight" to the intended coverage area. A centerline antenna height of 45 feet (above grade) is necessary to achieve coverage objectives. The subject property does not have an existing building or structure for antenna attachment that allows the antennas to achieve the required height. Without the additional 12 feet in height Verizon will not meet the coverage objectives. The height of the structure will exceed thirty-five feet to meet coverage objectives; however, the height standard may be increased subject to a finding of the City Council (see MPMC § 21.07.060);
- D. The subject property is located on the east side of Fulton Avenue, between Ackley Street and Iris Way. The property is owned by Southern California Edison (SCE). Properties located to north and southwest of the subject property are single-family dwellings, south is La Loma Park, and east and west are SCE properties. The Facility will not be visible from the Interstate 60 Pomona Freeway;
- E. The lot is 162,043 square feet (3.72 acres) in size. The lot is rectangular shaped, spans approximately 965 feet east-west, 168 feet north-south, and slopes up towards the center of the properties between Fulton Avenue and South Orange Avenue. The

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project site can be accessed from Fulton Avenue and South Orange Avenue. However, the main access will be from an existing driveway on South Orange Avenue. The lease area is approximately 52 feet from the nearest existing SCE tower to the east. The Facility will be setback 100 feet from the side, north property line (abutting the residential properties to the north) and 18 feet from side, south property line (abutting La Loma Park to the south), the applicant proposes to use the least visible antennas possible to accomplish coverage objectives. The proposed Facility will be located adjacent to La Loma Park, which is currently planted with many mature trees and will be located within a residential area that also has mature trees;

- F. The proposed wireless facility will be unmanned (there will, however, be monthly maintenance at the facility) and will not generate any additional traffic to and from the property; there will be monthly maintenance of the facility. Within this portion of SCE's right-of-way are a plant nursery and 4 existing SCE transmission towers. One of the towers currently has antenna panels from a different wireless carrier. The proposed use will not generate any smoke, odor, noise, or other adverse impacts to the adjacent land uses. The proposed project will also have no impact on parking, circulation or density in the area and will not adversely affect existing scenic and natural vistas;
- G. Mobile devices are a necessary emergency service device and business tool, as well as being convenient for personal and family use. The facility is necessary to address unreliable coverage within the southeast portion of the City, which Verizon's radio frequency engineers determined is needed to relieve network-traffic congestion and ensure reliable levels of service. Verizon must operate the proposed facility in full compliance with the regulations and licensing requirements of applicable federal and state laws. To remain compliant, Verizon must meet certain coverage objectives;
- H. The applicant submitted a statement of its willingness to allow other carriers to co-locate on the proposed wireless telecommunications facility wherever technically and economically feasible and where co-location would not harm community compatibility; and
- I. The applicant considered five sites: (1) a monopole constructed within La Loma Park; (2) a mono-pole constructed within La Loma Park, near an existing Southern California Edison ("SCE") transmission tower; (3) collocation on an existing SCE transmission tower towards the entrance to La Loma Park; (4) collocation on an existing SCE transmission tower at the top of the hill adjacent to the nursery, also within SCE's right-of-way; and (5) a monopole constructed at 1909 Fulton Avenue. Verizon determined the property located at 1909 Fulton Avenue to be the most desirable because (1) a monopole constructed in La Loma Park would have been too tall for its surroundings, and (2) collocation would have undermined the integrity of the existing cell towers.

SECTION 3: *Environmental Assessment.* The Project is categorically exempt from additional environmental review pursuant to CEQA Guidelines § 15303 as a Class 3 categorical

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exemption (New Construction or Conversion of Small Structures), because the project consists of construction and location of one new, small facility or structure, including new small equipment thereon. Additionally, pursuant to § 15300.2, the project is not an exception to the categorical exemption identified because (1) the project does not impact an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies; (2) the cumulative impact of successive projects of the same type in the same place, over time is insignificant; (3) there is no reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances; (4) the project will not result in damage to scenic resources; (5) the project is not located on a site which is included on any list compiled by the Department of Toxic Substances Control (pursuant to Government Code § 65962.5); and (6) the project will not cause a substantial adverse change in the significance of a historical resource.

SECTION 4: Conditional Use Permit Findings. Pursuant to MPMC §§ 21.10.030 (B), 21.32.020, and 21.34.020 the Planning Commission finds as follows:

1. The site is adequate in size, shape and topography for the proposed use including without limitation, any required yards, walls, fences, parking and loading facilities, landscaping, setbacks, and other development standards required by the MPMC. The subject property is 162,043 square feet (3.72 acres) in size. The proposed wireless facility will be a new 47 feet tall mono-eucalyptus tree within a 30 feet by 22 feet lease area. The lease area is approximately 52 feet from the nearest existing SCE tower to the east. The mono-eucalyptus tree structure will support 12 8-feet tall antenna panels, 18 radios, and 3 raycaps. At the base of the tree there will be 2 equipment cabinets and a DC generator mounted onto a new concrete pad. The equipment will be screened by a chain link fence with brown slats. The proposed wireless facility will be unmanned and will not generate any additional traffic to and from the property. Within this portion of SCE's right-of-way are a plant nursery and 4 existing SCE transmission towers. One of the towers currently has antenna panels from a different wireless carrier. The proposed wireless telecommunication facility complies with all requirements for the issuance of the conditional use permit.
2. The site has sufficient access to streets and highways, adequate in width and pavement type to carry the quantity and quality of traffic generated by the proposed use. The project site can be accessed from Fulton Avenue and South Orange Avenue. However, the main access will be from an existing driveway on South Orange Avenue. The proposed use is an unmanned wireless telecommunication facility and is not expected to significantly increase traffic. Aside from the monthly maintenance of the facility, there will be no other pedestrian or vehicular traffic generated by the proposed use.
3. The proposed use is consistent with the General Plan and conforms to objectives of the General Plan and the MPMC zoning regulations. The subject property is

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designated Open Space (OS) in the General Plan. All public parks and City-owned recreational facilities are included in the Open Space category. While parks represent the primary permitted use, other uses public-serving in nature are allowed. The proposed use is an unmanned wireless telecommunication facility, which is allowed in the O-S (Open Space) Zone with a Conditional Use Permit approval. Mobile devices are a necessary emergency service device and business tool, as well as being convenient for personal and family use. MPMC Chapter 21.34 establishes the standards for wireless telecommunication facilities and these standards are intended to protect the public health, safety, and general welfare, and to protect residents from any potential adverse impacts. The proposed use is consistent with the standards established by MPMC Chapter 21.34.

4. The proposed use will not create unusual noise, traffic, or other conditions that may be objectionable, detrimental, or incompatible with surrounding properties or other permitted uses in the City. The proposed use, as conditioned, will not have an adverse effect on the use, enjoyment or valuation of property in the neighborhood because the use is a wireless telecommunication facility and will not create unusual noise, traffic, or other conditions that may be objectionable, detrimental, or incompatible with surrounding properties or other permitted uses in the City. The proposed use has a design that is not unsightly or will cause adverse impacts to the surrounding area. The facility structures and equipment are located, designed and screened to blend with the existing facilities on site in such a manner as to alleviate any adverse impacts to adjacent uses and structures in the vicinity.
5. The proposed use will not have an adverse effect on the public health, safety, and general welfare. The proposed use is unmanned and will not generate any smoke, odor, noise, or other adverse impacts to the adjacent land uses. The proposed project will also have no impact on parking, traffic, circulation or density in the area and will not adversely affect existing scenic and natural vistas. The project is designed to be compatible with the existing trees within SCE's right-of-way, La Loma Park, and adjacent residential properties. The antennas will be hidden within an antenna support structure designed to be compatible with existing landscaping on the property.
6. The use applied for at the location set forth in the application is properly one authorized by conditional use permit pursuant to the MPMC. The proposed use is authorized by MPMC §§ 21.07.050(H), 21.32.020, and Chapter 21.34. The use is consistent with the O-S Zone and will not generate a significant amount of the noise, traffic or visual impacts.
7. To the maximum extent reasonably feasible, the proposed wireless telecommunications facility has been designed to achieve compatibility with the community. According to MPMC § 21.04.074, the proposed use is a Class 6 wireless telecommunication facility, which is a facility with an antenna mounted on the exterior of a freestanding structure that has been specifically built for the sole purpose of

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supporting a wireless telecommunications facility using camouflage design techniques that only partially hide or disguise the antenna panels but leave them partially visible. Typical examples of a Class 6 antenna would include mono-pines or mono-palms.

According to MPMC § 21.34.040(4), height requirements must be as specified within each respective zone. Verizon is requesting a height of 47 feet instead of the 35 feet height limit in the O-S Zone. According to the Applicant, the proposed use has antennas that must have a "clear line of sight" to the intended coverage area. In this particular case, a centerline antenna height of 45 feet (above grade) is necessary to achieve coverage objectives. Unlike the other locations considered and were not available to Verizon, the subject property does not have an existing building or structure for antenna attachment that allows the antennas to achieve the required height. Accordingly, a new freestanding structure is necessary at this particular property to meet coverage objectives. Without the additional 12 feet in height Verizon will not meet the coverage objectives.

8. Alternative configurations will not increase community compatibility or are not reasonably feasible. The proposed use is consistent with MPMC § 21.34.040(3) and has a stealth design that is not unsightly or causing adverse impacts to the surrounding area. The facility structures and equipments are located, designed and screened to blend with the existing facilities on site in such a manner as to alleviate any adverse impacts to adjacent uses and structures in the vicinity. The project is designed to be compatible with the surrounding landscape. The proposed facility will be proportional to the existing landscape. The antennas will be screened with a mono-eucalyptus design.
9. Alternative locations on the site will not increase community compatibility or are not reasonably feasible. The proposed use is designed at a location that is most reasonable on the property since the proposed facility will be located in an area with a large amount of existing landscaping and where two existing SCE transmission towers currently exist.
10. The location of the wireless telecommunications facility on alternative sites will not increase community compatibility or is not reasonably feasible. According to the Applicant, four other sites were considered before the subject property. However, those other properties were not available to Verizon.
11. The facility is necessary to close a significant gap in coverage. The subject property does not have an existing building or structure for antenna attachment that allows the antennas to achieve the required height. Accordingly, a new freestanding structure is necessary on the subject property to meet coverage objectives and close the coverage gap. The coverage area is requirement of all wireless telecommunication companies, not just the applicant. A lower antenna height in this area would prevent the antennas from functioning properly.

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12. The applicant submitted a statement of its willingness to allow other carriers to co-locate on the proposed wireless telecommunications facility wherever technically and economically feasible and where co-location would not harm community compatibility.
13. Noise generated by the facility is exempt from compliance with MPMC Chapter 9.53. See MPMC § 9.53.070(7), any activity, the regulation of which has been preempted by state or federal law, shall be exempt from the provisions of the City's noise regulations. Nevertheless, the proposed use is an unmanned wireless telecommunication facility, which will not generate noise that will exceed the levels identified in MPMC Chapter 9.53.
14. The facility complies with all of the requirements of State and federal laws, regulations and orders. Verizon will operate the proposed facility in full compliance with the regulations and licensing requirements of state and federal laws.

SECTION 4: *Determination.* The Planning Commission thereby recommends that the City Council approves the height of the structure – in excess of thirty-five feet – for the purposes of allowing a new wireless telecommunications facility to be constructed and operated from 1909 Fulton Avenue. The Planning Commission further recommends that the City Council adopt the conditional use permit (CUP-17-10), in substantially the form attached as “Exhibit A,” which is incorporated by reference.

SECTION 5: This Resolution becomes effective immediately upon adoption.

ADOPTED AND APPROVED this 23rd day of October 2018.

Chairperson Delario Robinson


I hereby certify that the foregoing Resolution was duly adopted by the Planning Commission of the City of Monterey Park at the regular meeting held on the 23rd day of October 2018, by the following vote of the Planning Commission:

AYES:
NOES:
ABSTAIN:
ABSENT:

Michael A. Huntley, Secretary

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APPROVED AS TO FORM:
Mark D. Hensley, City Attorney

By: 

Natalie C. Karpeles,
Deputy City Attorney

PLANNING COMMISSION RESOLUTION NO.

Exhibit A

CONDITIONS OF APPROVAL

1909 FULTON AVENUE (ASSESSOR'S PARCEL NUMBER: 5265-001-808)

In addition to all applicable provisions of the Monterey Park Municipal Code ("MPMC"), Delta Groups Engineering, Inc. on behalf of Verizon, agrees that Verizon will comply with the following conditions of approval for Conditional Use Permit (CUP-17-10) ("Project Conditions").

PLANNING:

1. Verizon (the "Applicant"), agrees to indemnify and hold the City harmless from and against any claim, action, damages, costs (including, without limitation, attorney's fees), injuries, or liability, arising from the City's approval of CUP-17-10 except for such loss or damage arising from the City's sole negligence or willful misconduct. Should the City be named in any suit, or should any claim be brought against it by suit or otherwise, whether the same be groundless or not, arising out of the City approval of CUP-17-10, the Applicant agrees to defend the City (at the City's request and with counsel satisfactory to the City) and will indemnify the City for any judgment rendered against it or any sums paid out in settlement or otherwise. For purposes of this section "the City" includes the City of Monterey Park's elected officials, appointed officials, officers, and employees.
2. This approval is for the project as shown on the plans reviewed and approved by the Planning Commission and on file. Before the City issues a building permit, the Applicant must submit plans, showing that the project substantially complies with the plans and conditions of approval on file with the Planning and Building and Safety Divisions. Any subsequent modification must be referred to the Director of Community and Economic Development for a determination regarding the need for Planning Commission review and approval of the proposed modification.
3. The conditional use permit expires twelve months after its approval if the use has not commenced or if improvements are required, but construction has not commenced under a valid building permit. A total of a year extension may be granted by the Planning Commission upon finding of good cause. An application requesting an extension must be filed with the Community and Economic Development Director, or designee (the "Director").
4. A copy of the Conditions of Approval for Conditional Use Permit (CUP-17-10) must be kept on the premises of the establishment and presented to any authorized City official upon request.
5. Should use of the facility be discontinued for more than 180 days, all facilities must be removed from the site.

**PLANNING COMMISSION
RESOLUTION NO.**

6. The maximum height of the mono-eucalyptus tree, including branches must not exceed 47 feet.
7. The pole will be required to be clad in a textured material resembling rough bark that matches the sample submitted for review by the applicant and held by the Planning Division. The artificial bark must be white, cream, grey, and copper and cover the bottom 15 feet minimum. Above that, the pole must be painted to match. The support brackets must be painted to blend into the surround branches. The leaves on the branches must be composed of green and olive materials in substantial conformity to the sample submitted by the applicant and held by the Planning Division.
8. Any deviations from approved plans, samples, photographs, and photo simulations must be brought back to the Planning Commission in the form of a modified Conditional Use Permit.

BUILDING:

9. The second sheet of the building plans must list all City of Monterey Park conditions of approval.
10. All work must conform to the requirements of the 2016 California Building, Electrical, Fire, and other uniform Codes, as adopted by the MPMC.
11. Building and electrical plans must be approved prior to the issuance of building or electrical permits.

FIRE:

12. All conditions identified by the Fire Department are subject to review and approval by the Fire Chief for determination of applicability and extent to which any condition may be required.
13. Emergency generator must be provide with NFPA 704 placarding indicating hazard of fuel used as indicated in the California Fire Code (CFC) § 503.5.
14. A minimum 2A:40BC fire extinguisher must be provided with a maximum travel distance to 30 feet to the generator as indicated in the CFC § 906.1.
15. A permit must be obtained from the Fire Department prior to engaging in activities, operations, practices or functions as indicated in the CFC §§ 105.6 and 105.7.

POLICE:

16. The equipment/facility cannot interfere with any Police or Fire Department radio or digital communications or exchange.

**PLANNING COMMISSION
RESOLUTION NO.**

17. If it is determined that the equipment/facility is interfering with any Police or Fire Department radio communications, the applicant must shut down the facility immediately upon being notified of such problems. The facility cannot become operational until the applicant has proven to the Police Department that the problem has been fixed and will not interfere with any Police or Fire Department radio communications or digital equipment.

By signing this document, Delta Groups Engineering, Inc., certifies on behalf of Verizon that the Applicant read, understood, and agrees to the Project Conditions listed in this document.

Delta Groups Engineering, Inc.,
signing on behalf of Verizon, Applicant

ATTACHMENT 3

Photo simulations



KEMPTON

1909 FULTON AVENUE MONTEREY PARK CA 91755



VIEW 1



ACCURACY OF PHOTO SIMULATION BASED UPON INFORMATION PROVIDED BY PROJECT APPLICANT.



KEMPTON

1909 FULTON AVENUE MONTEREY PARK CA 91755



VIEW 2

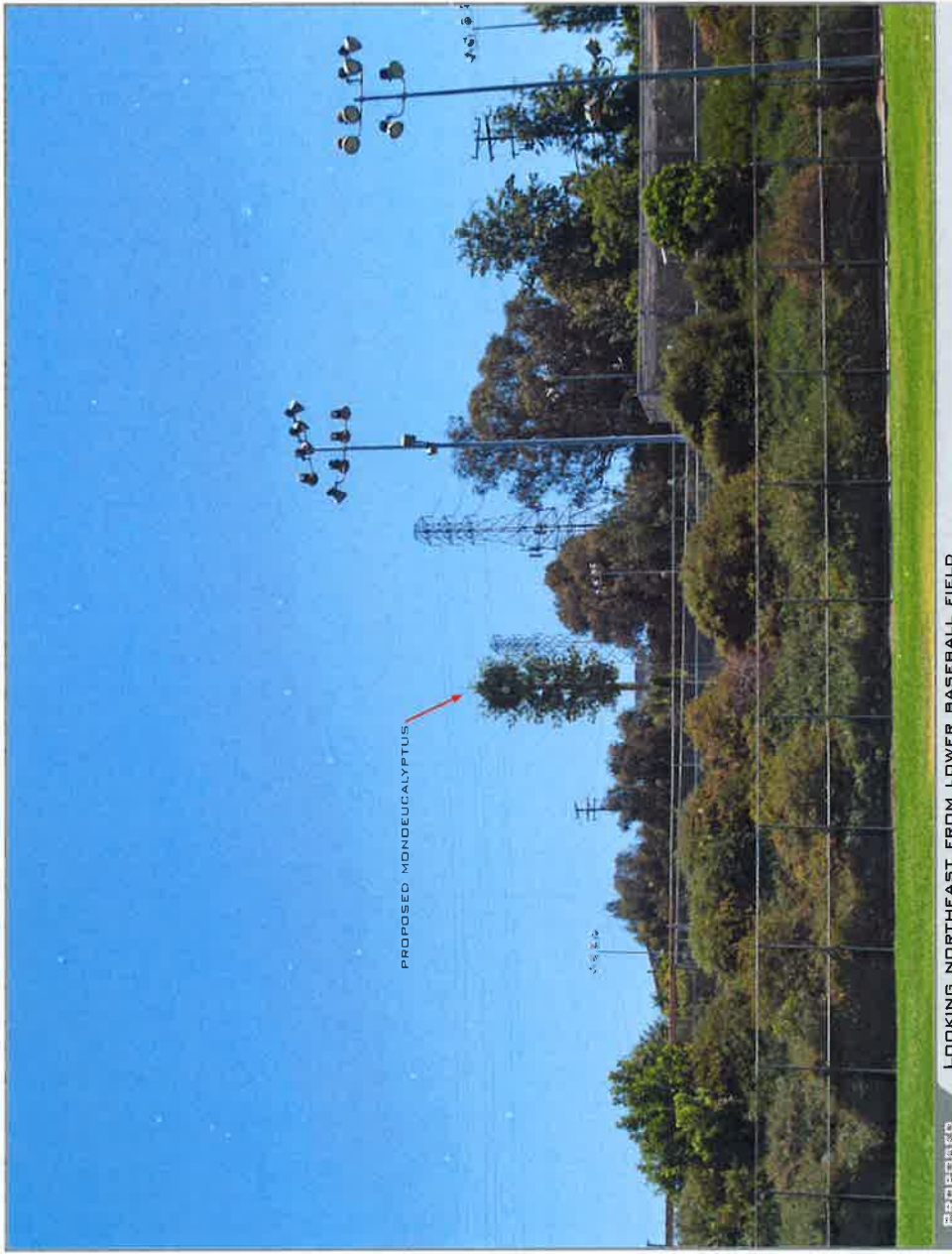


©2017 Google Maps

LOCATION



EXISTING



PROPOSED MONDEUCALYPTUS

PROPOSED LOOKING NORTHEAST FROM LOWER BASEBALL FIELD

ACCURACY OF PHOTO SIMULATION BASED UPON INFORMATION PROVIDED BY PROJECT APPLICANT.



KEMPTON

1909 FULTON AVENUE MONTEREY PARK CA 91755



VIEW 3



ACCURACY OF PHOTO SIMULATION BASED UPON INFORMATION PROVIDED BY PROJECT APPLICANT.



KEMPTON

1909 FULTON AVENUE MONTEREY PARK CA 91755



VIEW 4



©2017 Google Maps

LOCATION



EXISTING



PROPOSED

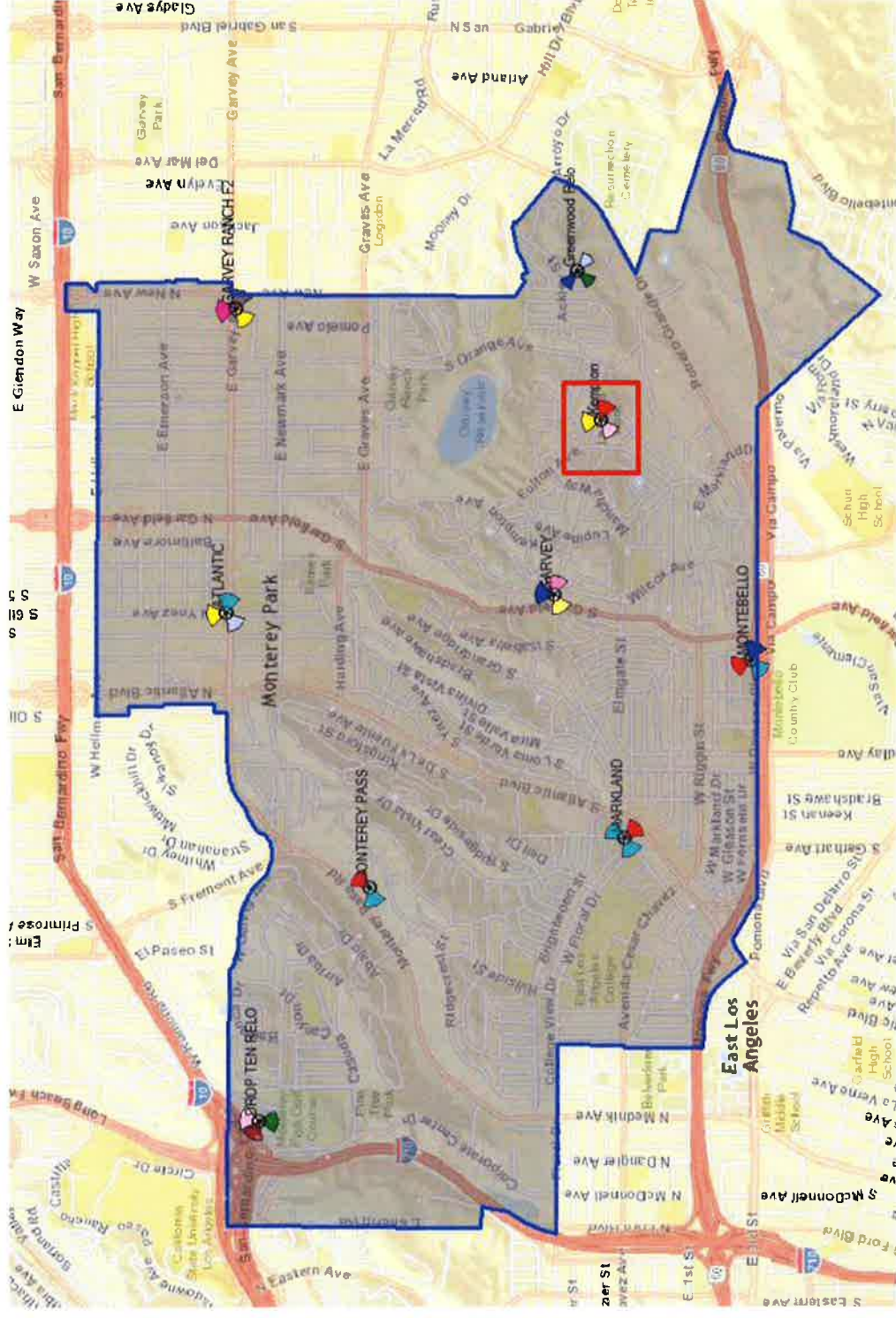
LOOKING SOUTH FORM TAYLOR DRIVE

ACCURACY OF PHOTO SIMULATION BASED UPON INFORMATION PROVIDED BY PROJECT APPLICANT.

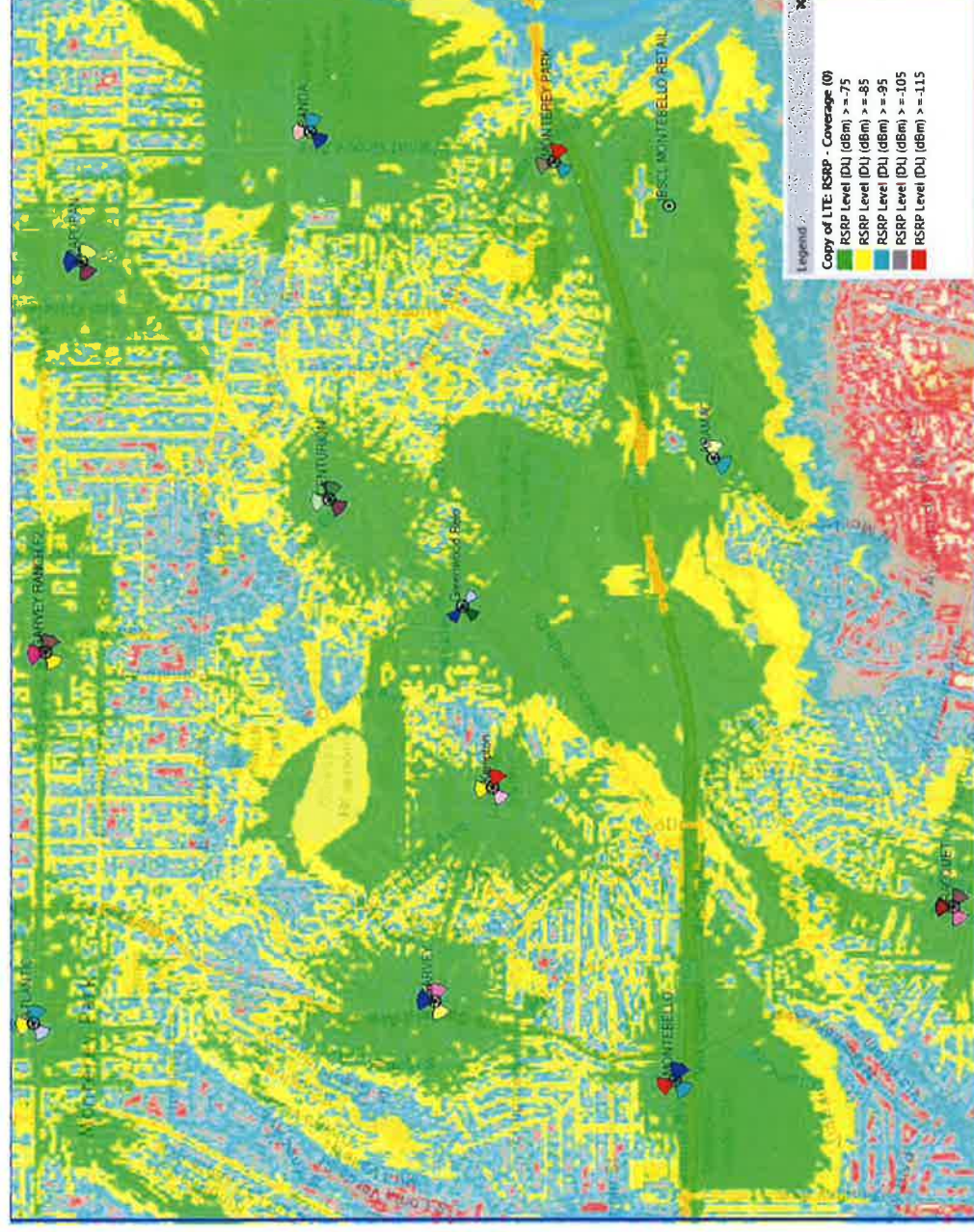
ATTACHMENT 4

Propagation Maps

Existing Sites in Monterey Park



RSRP with Kempton



ATTACHMENT 5

Letter Agreements dated March 12, 2018, May 30, 2018, July 24, 2018, and
September 20, 2018

MACKENZIE & ALBRITTON LLP

155 SANSOME STREET, SUITE 800
SAN FRANCISCO, CALIFORNIA 94104

TELEPHONE 415/ 288-4000
FACSIMILE 415/ 288-4010

March 12, 2018

VIA EMAIL

Mark Hensley, Esq.
City Attorney
City of Monterey Park
c/o Hensley Law Group
2600 W Olive Ave Ste 500
Burbank, California 91505

Re: Verizon Wireless Application No. CU-17-10
Telecommunications Facility, 1909 Fulton Avenue, Monterey Park
FCC Shot Clock Tolling Agreement: May 31, 2018

Dear Mark:

We write to you on behalf of our client Los Angeles SMSA Limited Partnership dba Verizon Wireless (“Verizon Wireless”) with respect to the above-referenced application for a proposed wireless facility in Monterey Park filed October 23, 2017 (the “Application”). Federal law requirements obligate the City of Monterey Park (the “City”) to take final action on Verizon Wireless’s application within a specified time period unless the time period is extended by mutual consent. When countersigned, this letter will confirm an agreement between Verizon Wireless and the City to extend the applicable time period for review of the Application under the federal Telecommunications Act to May 31, 2018.

The federal Telecommunications Act requires that local governments act on wireless siting applications “within a reasonable period of time.” *See* 47 USC § 332(c)(7)(B)(ii). In a 2009 declaratory ruling, the Federal Communications Commission established a legal presumption that a local government has violated this requirement if it takes longer than 90 days to act on an application to collocate a wireless facility or 150 days to act on any other type of wireless facility application. *See In Re: Petition for Declaratory Ruling to Clarify Provisions of Section 332(c)(7)(B) to Ensure Timely Siting Review, Etc.*, FCC 09-99 (FCC November 18, 2009) (the “Ruling”).¹ The Ruling further permits the period for review of an application to be extended by mutual consent. Ruling, ¶ 49.

¹ The Ruling was upheld by the United States Supreme Court on May 20, 2013. *See City of Arlington v. Federal Communications Commission*, 133 S. Ct. 1863 (U.S. 2013).

Mark Hensley, Esq.
City of Monterey Park
March 12, 2018
Page 2 of 2

In order to allow the City to act on the application in an orderly manner, without either party risking the loss of important rights, the parties agree that the time period within which the City may take final action on the Application shall be extended through May 31, 2018, and that no limitations period for any claim of unreasonable or unlawful delay in processing the Application shall commence to run before said date.

If you agree, this letter agreement may be executed in counterparts, and scanned or facsimile signatures shall be deemed equivalent to original signatures. I will appreciate your returning a countersigned copy to me.

Sincerely,



Paul B. Albritton

cc: Samantha Tewasart

ACCEPTED AND AGREED TO:

City of Monterey Park

By:  _____

Printed name: Karl H. Berger

Title: Assistant City Attorney

MACKENZIE & ALBRITTON LLP

155 SANSOME STREET, SUITE 800
SAN FRANCISCO, CALIFORNIA 94104

TELEPHONE 415/ 288-4000
FACSIMILE 415/ 288-4010

May 30, 2018

VIA EMAIL

Mark Hensley, Esq.
City Attorney
City of Monterey Park
c/o Hensley Law Group
2600 W Olive Ave Ste 500
Burbank, California 91505

Re: Verizon Wireless Application No. CU-17-10
Telecommunications Facility, 1909 Fulton Avenue, Monterey Park
FCC Shot Clock Tolling Agreement: July 25, 2018

Dear Mark:

In a letter agreement dated March 12, 2018, Verizon Wireless and the City of Monterey Park (the "City") agreed to extend the time period for review under the federal Telecommunications Act for the above-referenced application through May 31, 2018 (the "Extension Date"). This letter, when countersigned, will confirm that Verizon Wireless and the City have agreed to further extend the time for the City to act on the application, and that the Tolling Agreement is hereby amended by changing the Extension Date to July 25, 2018. Except as expressly modified herein, the Tolling Agreement remains in full force and effect without modification.

This amendment to the Tolling Agreement may be executed in counterparts and facsimile, each of which shall be deemed an original.

Sincerely,



Paul B. Albritton

cc: Samantha Tewasart

Mark Hensley, Esq.
City of Monterey Park
May 30, 2018
Page 2 of 2

ACCEPTED AND AGREED TO:


City of Monterey Park
By: _____
Printed name: Karl H. Berger
Title: Assistant City Attorney

MACKENZIE & ALBRITTON LLP

155 SANSOME STREET, SUITE 800
SAN FRANCISCO, CALIFORNIA 94104

TELEPHONE 415/ 288-4000
FACSIMILE 415/ 288-4010

July 24, 2018

VIA EMAIL

Mark Hensley, Esq.
City Attorney
City of Monterey Park
c/o Hensley Law Group
2600 W Olive Ave Ste 500
Burbank, California 91505

Re: Verizon Wireless Application No. CU-17-10
Telecommunications Facility, 1909 Fulton Avenue, Monterey Park
FCC Shot Clock Tolling Agreement: September 28, 2018

Dear Mark:

In a letter agreement dated March 12, 2018 and amended May 30, 2018, Verizon Wireless and the City of Monterey Park (the "City") agreed to extend the time period for review under the federal Telecommunications Act for the above-referenced application through July 25, 2018 (the "Extension Date"). This letter, when countersigned, will confirm that Verizon Wireless and the City have agreed to further extend the time for the City to act on the application, and that the Tolling Agreement is hereby amended by changing the Extension Date to September 28, 2018. Except as expressly modified herein, the Tolling Agreement remains in full force and effect without modification.

This amendment to the Tolling Agreement may be executed in counterparts and facsimile, each of which shall be deemed an original.

Sincerely,



Paul B. Albritton

cc: Samantha Tewasart

Mark Hensley, Esq.
City of Monterey Park
July 24, 2018
Page 2 of 2

ACCEPTED AND AGREED TO:

City of Monterey Park

By:  _____

Printed name: Karl H. Berger

Title: Assistant City Attorney

MACKENZIE & ALBRITTON LLP

155 SANSOME STREET, SUITE 800
SAN FRANCISCO, CALIFORNIA 94104

TELEPHONE 415/ 288-4000
FACSIMILE 415/ 288-4010

September 20, 2018

VIA EMAIL

Mark Hensley, Esq.
City Attorney
City of Monterey Park
c/o Hensley Law Group
2600 W Olive Ave Ste 500
Burbank, California 91505

Re: Verizon Wireless Application No. CU-17-10
Telecommunications Facility, 1909 Fulton Avenue, Monterey Park
FCC Shot Clock Tolling Agreement: November 6, 2018

Dear Mark:

In a letter agreement dated March 12, 2018 and amended May 30, 2018 and July 24, 2018, Verizon Wireless and the City of Monterey Park (the "City") agreed to extend the time period for review under the federal Telecommunications Act for the above-referenced application through September 28, 2018 (the "Extension Date"). This letter, when countersigned, will confirm that Verizon Wireless and the City have agreed to further extend the time for the City to act on the application, and that the Tolling Agreement is hereby amended by changing the Extension Date to November 6, 2018. Except as expressly modified herein, the Tolling Agreement remains in full force and effect without modification.

This amendment to the Tolling Agreement may be executed in counterparts and facsimile, each of which shall be deemed an original.

Sincerely,



Paul B. Albritton

cc: Samantha Tewasart

Mark Hensley, Esq.
City of Monterey Park
September 20, 2018
Page 2 of 2

ACCEPTED AND AGREED TO:

City of Monterey Park

By: 

Printed name: Karl H. Berger

Title: Assistant City Attorney